interference by Transworld and MARTIN MARIETTA which caused Sivirin to disregard the extension he had given to the end of the year for completing the joint venture agreement.

26. Although it initially refused to even look at the SEMTEK/MERKURIY agreements, MARTIN MARIETTA eventually did agree to have its general counsel in Maryland review the SEMTEK/MERKURIY agreements, but steadfastly to this day has refused to allow SEMTEK to review the agreements between MERKURIY, Transworld, and MARTIN MARIETTA, despite requests by SEMTEK that it be allowed to review those agreements. After reviewing the SEMTEK/MERKURIY agreements, MARTIN MARIETTA's general counsel from Maryland acknowledged that SEMTEK and MERKURIY had an agreement or relationship in place for commercialization and marketing of the Luch I Satellite. He also stated that negotiations were underway among MERKURIY, Transworld, and MARTIN MARIETTA, but did not indicate that those parties had reached an agreement. In fact, MERKURIY, Transworld and MARTIN MARIETTA did not enter their agreement until March, 1995.

27. SEMTEK made extensive efforts to revive its contract and economic relationship with MERKURIY, but Sivirin indicated that although his July 27, 1994 letter was "unfortunate", his hands were tied and he could not avoid dealing with Transworld, Millman, and MARTIN MARIETTA. He further indicated in December, 1994 that it was beyond his power to change the arrangements for the commercialization of the satellite.

28. At all times mentioned herein, Transworld was strictly a front company for MARTIN MARIETTA. MARTIN MARIETTA fully financed, directed and controlled the activities of Transworld and its president, Richard Millman. MARTIN MARIETTA acted through this ostensibly separate company in order to avoid or minimize the risk of prosecution or other adverse consequences to it that could accrue as a result of



improper payments to Russian officials that would violate the Foreign Corrupt Practices Act or other laws, and to avoid civil liability for inducing breach of contract or interfering with SEMTEK'S prospective economic advantage.

29. At all times mentioned herein, MARTIN MARIETTA so controlled and dominated Transworld that Transworld had no real separate corporate existence apart from that of MARTIN MARIETTA, resulting in a complete unity of interest between those two companies such that Transworld is merely the alter ego of MARTIN MARIETTA. Transworld was completely undercapitalized for its purported business of commercialization of the Luch Satellite and was entirely dependant for funding on MARTIN MARIETTA. Transworld had no expertise within its company for conducting its purported business of commercialization of the Luch Satellite and was entirely dependant for that expertise on MARTIN MARIETTA. MARTIN MARIETTA attended all meetings, received all correspondence, and made all important business decisions with respect to Transworld's purported business of commercialization of the Luch Satellite. The individuality and separateness of those two companies had ceased, and Transworld was a mere shell which MARTIN MARIETTA used as a conduit for its own business affairs.

30. Adhering to the fiction that Transworld has a separate corporate existence from MARTIN MARIETTA would perpetrate a fraud on plaintiff, would promote injustice, would yield an inequitable result and would constitute an abuse of the corporate privilege in that Transworld secured its contract or contracts with MERKURIY, in derogation of the rights, contracts, and economic relationship SEMTEK had with MERKURIY, and for the benefit of MARTIN MARIETTA, by means of improper payments to Sivirin or Russian officials in positions superior to Sivirin, or by other improper means, all financed and directed, approved, or ratified by MARTIN MARIETTA.

31. MARTIN MARIETTA fraudulently misrepresented or concealed certain facts essential to SEMTEK'S claim in this Complaint, and SEMTEK only first learned of all the essential facts giving rise to a cause of action against those defendants within two years of filing this complaint. In particular, MARTIN MARIETTA falsely represented that it had no financial interest in Transworld and no direct involvement with MERKURIY, and that its only role in the transaction was pursuant to contractual arrangements with Transworld. MARTIN MARIETTA also represented that it had conducted an internal review from its home office in Maryland and that review established that it had not interfered with the SEMTEK/MERKURIY contract. MARTIN MARIETTA also falsely represented from Maryland that Transworld had prior rights because Transworld already had a contract with MERKURIY for the next generation Luch Satellite at the time SEMTEK entered its Letter of Intent. Within two years of filing this complaint, SEMTEK has learned that all of these representations were false, and that the true facts were that MARTIN MARIETTA has a controlling financial interest in Transworld and in fact did control Transworld in connection with the latter's transaction with MERKURIY, and that Transworld and MARTIN MARIETTA did not complete a contract with MERKURIY until at least March, 1995, long after initially beginning their interference with SEMTEK's prospective economic advantage by inducing MERKURIY to breach its contract with SEMTEK or inducing MERKURIY to terminate the advantageous economic relationship SEMTEK had with MERKURIY. SEMTEK had no means to discover this information earlier other than from MARTIN MARIETTA, and it had refused to disclose those facts.

COUNT ONE

(For Damages for Inducing Breach of Contract)

32. Plaintiff refers to paragraphs 1 to 31, and incorporates each of those paragraphs as if set forth in full at this point.



33. As of no later than May 3, 1993, SEMTEK had a valid and enforceable contract with MERKURIY consisting of the Business Agreement, the Protocol, the agency authorization, and the Letter of Intent, which together contained all essential terms for the formation of a Joint Venture with the exclusive right to sell data transmission services on a commercial basis worldwide. The Joint Venture embodied in these documents related to the next generation of Luch Satellite and to other satellites MERKURIY would assign to the Joint Venture. The Protocol also potentially related to the Luch Satellite already in orbit, but that part of the transaction never materialized because Transworld had prior rights to that satellite and the transaction with respect to that satellite was only intended to move forward if Transworld remained in breach of its prior agreement, as it was at the time of the Business Agreement and Protocol. The Letter of Intent referred to the next generation of satellite as Luch I. MARTIN MARIETTA, in its correspondence and other documentation, referred to this next generation of satellite as Loutch II, to denote some additional modifications made by MARTIN MARIETTA to make the satellite conform to its application.

34. The contract between SEMTEK and MERKURIY afforded a high probability of substantial economic benefit to SEMTEK, in that such satellite contains four transponders, and each transponder could produce revenues of up to $2,000,000 per year, and up to three times that amount with compression devices deployed that would enable each transponder to send more than one signal simultaneously. The guaranteed life of the Luch Satellite is three years, but the usual useful life is five years. The contract contemplated two Luch satellites. Anticipated revenues to the Joint Venture thus ranged from $48,000,000 to $80,000,000 depending on the life of the satellite, before application of the compression technology, which could have tripled revenue. The investment required would not exceed $5,000,000 so the contract could have resulted in SEMTEK receiving over $100,000,000 net of expenses over

the course of five years.

35. At all times mentioned herein, MARTIN MARIETTA was aware of the existence of the contract between SEMTEK and MERKURIY. MARTIN MARIETTA also had a desire to obtain some or all of the rights to commercially market the satellite transmission capacity for its own economic benefit.

36. With knowledge of SEMTEK's contract with MERKURIY, MARTIN MARIETTA, acting directly or through Transworld, offered economic incentives and other consideration, and made improper payments, to either Sivirin or superiors of Sivirin, or to MERKURIY, for the express purpose of securing for MARTIN MARIETTA or its front company Transworld the rights to commercially market the Luch I Satellite which it knew belonged to SEMTEK, all for the pecuniary benefit of MARTIN MARIETTA. MARTIN MARIETTA, acting directly or through Transworld and Millman, also advised, counseled, and persuaded MERKURIY that it could breach, disavow, or otherwise avoid its contract with SEMTEK by asserting that no contract had been formed, and that the parties had failed to timely form the Joint Venture, when in fact a contract already existed and the time to complete the business plan and formal joint venture document had been extended and had not yet expired. In offering those incentives and other consideration, making those payments, and persuading MERKURIY to take those positions disavowing the contract with SEMTEK, MARTIN MARIETTA violated fair and ethical business practices, the MARTIN MARIETTA code of business ethics, and the law. MARTIN MARIETTA committed those acts with the specific intent of inducing MERKURIY to breach and disavow its contract with SEMTEK and instead enter into a contact with Transworld and/or MARTIN MARIETTA. MARTIN MARIETTA intended to interfere with the established relationship between SEMTEK and MERKURIY, and its acts were designed to disrupt that relationship and deprive SEMTEK of the economic benefit of its contract with MERKURIY.



37. The acts of MARTIN MARIETTA as described above did in fact induce MERKURIY to breach its contract with SEMTEK and did in fact actually dispute the economic relationship between SEMTEK and MERKURIY in that on August 8, 1994, MERKURIY faxed to SEMTEK a July 27, 1994 letter informing SEMTEK that no contract existed between them and the Letter of Intent was not binding, and falsely stating that the parties had failed to timely complete the Joint Venture. MERKURIY instead entered into a contract with Transworld and/or MARTIN MARIETTA, and thereafter refused to continue performing under its contract with SEMTEK.

38. As a direct and proximate result of MARTIN MARIETTA's inducing MERKURIY to breach its contract with SEMTEK, SEMTEK has suffered damages in the form of loss of income in excess of $100,000,000 from the Luch I Satellite, plus interest thereon according to proof. The Luch I Satellite was only first launched within the last two years, and SEMTEK therefore only suffered its damages commencing with the last two years, as the satellite must be launched before SEMTEK would start receiving income.

39. The acts of MARTIN MARIETTA as described above were performed with malice, oppression, fraud and ill will, with an intent to vex, injure, and annoy SEMTEK, and with a conscious disregard of SEMTEK's rights, all of which warrants the imposition of punitive or exemplary damages in an amount to be determined at trial.

COUNT TWO

(For Damages for Intentional Interference

With Prospective Economic Advantage)

40. Plaintiff refers to paragraphs 1 to 31, and incorporates each of these paragraphs as if set in full at this point.

41. At all times mentioned herein, an economic relationship existed between SEMTEK and MERKURIY whereby those entities would engage in a Joint Venture that would have the

exclusive worldwide right to sell data transmission services via the Luch I Satellite on a commercial basis. This economic relationship consisted of the agreements set forth in the Business Agreement, the Protocol, and the Letter of Intent described above, as well as the extensive steps taken by SEMTEK to interview and assemble highly qualified staff, engage the services of an investment banking firm, retain consultants in satellite technology and marketing, prepare a business plan, and participate in meetings, conversations and correspondence with MERKURIY and others concerning the business of the Joint Venture. While the Business Agreement and Protocol related to the Luch Satellite that was in orbit at the time and applied only if Transworld, which had the marketing rights for that satellite, continued to breach its agreement with MERKURIY as it had at that time, the Letter of Intent applied to the Luch I Satellite to be launched at a then undetermined date in the future. The Luch I Satellite was later referred to as Loutch II in MARTIN MARIETTA correspondence and documents, denoting some additional modifications LOCKHEED MARTIN made for compatibility with its own application. SEMTEK and MERKURIY were progressing toward completion of a final Joint Venture document which would encompass the business plan and set forth their arrangement in greater detail than the Letter of Intent previously signed and would have concluded that arrangement if not for the interference of MARTIN MARIETTA.

42. The economic relationship between SEMTEK and MERKURIY afforded a high probability of substantial economic benefit to SEMTEK, in that each satellite contains four transponders, and each transponder could produce revenues of up to $2,000,000 per year, and up to three times that amount with compression devices deployed that would enable each transponder to send more than one signal simultaneously. The guaranteed life of the Luch I Satellite is three years, but the usual useful life is five years. The business plan contemplated two Luch satellites. Anticipated revenues to the Joint Venture thus



ranged from $48,000,000 to $80,000,000 depending on the life of the satellite, before application of the compression technology, which could have tripled revenue. The investment required would not exceed $5,000,000, so the contract could have resulted in SEMTEK receiving over $100,000,000 net of expenses over the course of five years.

43. At all times mentioned herein, MARTIN MARIETTA was aware of the existence of the advantageous relationship between SEMTEK and MERKURIY. MARTIN MARIETTA also had a desire to obtain some or all of the rights to commercially market the satellite transmission capacity for its own economic benefit.

44. With knowledge of SEMTEK'S advantageous economic relationship with MERKURIY, MARTIN MARIETTA, acting directly or through Transworld, offered economic incentives and other consideration, and made improper payments, to either Sivirin or superiors of Sivirin, or to MERKURIY, for the express purpose of securing for MARTIN MARIETTA or its front company Transworld the rights to commercially market the Luch Satellite which it knew belonged to SEMTEK, all for the pecuniary benefit of MARTIN MARIETTA. MARTIN MARIETTA, acting directly or through Transworld and Millman, also advised, counseled, and persuaded MERKURIY that it could disavow, terminate, or otherwise avoid its relationship with SEMTEK by asserting that no contract had been formed, and that the parties had failed to timely form the Joint Venture, when in fact the time to complete the business plan and formal joint venture document had been extended and had not yet expired, and SEMTEK and MERKURIY did not have a relationship which, if not disrupted by MARTIN MARIETTA, would have resulted in economic benefits for both SEMTEk and MERKURIY. In offering those incentives and other consideration, making those payments, and persuading MERKURIY to take those positions disavowing and terminating its relationship with SEMTEK, MARTIN MARIETTA violated

fair and ethical business practices, the MARTIN MARIETTA code of business ethics, and the law. MARTIN MARIETTA committed those acts with the specific intent of interfering with SEMTEK's advantageous economic relationship with MERKURIY and interfering with SEMTEK's prospective economic advantage. MARTIN MARIETTA's acts were designed to disrupt that relationship and deprive SEMTEK of the economic benefit of its relationship with MERKURIY.

45. The acts of MARTIN MARIETTA as described above did in fact actually disrupt the economic relationship between SEMTEK and MERKURIY and did in fact interfere with SEMTEK's prospective economic advantage in that on August 8, 1994, MERKURIY faxed to SEMTEK a July 27, 1994 letter informing SEMTEK that no contract existed between them and that the Letter of Intent was not binding, and falsely stating that the parties had failed to timely complete the Joint Venture. MERKURIY instead entered into a contract with Transworld and/or MARTIN MARIETTA for the same rights to market commercially the data transmission capacity of the Luch I Satellite, and thereafter refused to continue its relationship with SEMTEK.

46. As a direct proximate result of MARTIN MARIETTA's interference with SEMTEK's prospective economic advantage, SEMTEK has suffered damages in the form of loss in income in excess of $100,000,000 from the Luch I Satellite, plus interest thereon according to proof. The Luch I Satellite was only first launched within the last two years, and SEMTEK therefor suffered its damages commencing within the last two years, as the satellite must be launched before SEMTEK would start receiving income.

47. The acts of MARTIN MARIETTA as described above were performed with malice, oppression, fraud and ill will, with an intent to vex, injure, and annoy SEMTEK, and with a conscious disregard of SEMTEK's rights, all of which warrants the imposition of punitive or exemplary damages in an amount



to be determined at trial.

COUNT THREE

(For Damages for Negligent Interference

With Prospective Economic Advantage)

48. Plaintiff refers to paragraphs 1 to 31, and incorporates each of those paragraphs as it set forth in full at this point.

49. At all times mentioned herein, an economic relationship existed between SEMTEK and MERKURIY whereby those entities would engage in a Joint Venture that would have the exclusive worldwide right to sell data transmission services via the Luch I Satellite on a commercial basis. This economic relationship consisted of the agreements set forth in the Business Agreement, Protocol, and the Letter of Intent described above, as well as the extensive steps taken by SEMTEK to interview and assemble highly qualified staff, engage the services of an investment banking firm, retain consultants in satellite technology and marketing, prepare a business plan, and participate in meetings, conversations and correspondence with MERKURIY and others concerning the business of the Joint Venture. While the Business Agreement and Protocol related to the Luch Satellite that was in orbit at the time and applied only if Transworld, which had the marketing rights for that satellite, continued to breach its agreement with MERKURIY as it had at that time, the Letter of Intent applied to the Luch I Satellite to be launched at a then undetermined date in the future. The Luch I Satellite was later referred to as Loutch II in MARTIN MARIETTA correspondence and documents, denoting some additional modifications LOCKHEED MARTIN made for compatibility with its own application. SEMTEK and MERKURIY were progressing toward completion of a final Joint Venture document which would encompass the business plan and set forth their arrangement in greater detail than the Letter of Intent previously signed and would have concluded that arrangement if not for the interference of MARTIN

MARIETTA.

50. The economic relationship between SEMTEK and MERKURIY was intended to benefit both parties economically and afforded a high probability of substantial economic benefit to SEMTEK, in that each satellite contains four transponders, and each transponder could produce revenues of up to $2,000,000 per year, and up to three times that amount with compression devices deployed that would enable each transponder to send more than one signal simultaneously. The guaranteed life of the Luch Satellite is three years, but the usual useful life is five years. The Business plan contemplated two Luch satellites. Anticipated revenues to the Joint Venture thus ranged from $48,000,000 to $80,000,000 depending on the life of the satellite, before application of the compression technology which could have tripled revenue. The investment required would not exceed $5,000,000, so the contract could have resulted in SEMTEK receiving over $100,000,000 net of expenses over the course of five years.

51. At all times mentioned herein, MARTIN MARIETTA was aware of the existence of the advantageous economic relationship between SEMTEK and MERKURIY. MARTIN MARIETTA also had a desire to obtain some or all of the rights to commercially market the satellite transmission capacity for its own economic benefit, and knew that if it did not act with due care, its actions seeking those commercial marketing rights would interfere with the relationship between SEMTEK and MERKURIY, and would cause SEMTEK to lose the probable future economic benefit and prospective economic advantage of its relationship with MERKURIY.

52. With knowledge of SEMTEK's advantageous economic relationship with MERKURIY, MARTIN MARIETTA, acting directly or through Transworld, negligently, carelessly, and unlawfully offered economic incentives and other consideration and made improper payments to either Sivirin or superiors of Sivirin, or to MERKURIY, for the express purpose of securing



for MARTIN MARIETTA or its front company Transworld the rights to commercially market the Luch Satellite which it knew belonged to SEMTEK, all for the pecuniary benefit of MARTIN MARIETTA. MARTIN MARIETTA, acting directly or through Transworld and Millman, also negligently, carelessly, and unlawfully advised, counseled, and persuaded MERKURIY that it could disavow, terminate or otherwise avoid its relationship with SEMTEK by asserting that no contract had been formed, and that the parties had failed to timely form the Joint Venture, when in fact the time to complete the business plan and formal joint venture had been extended and had not yet expired, and SEMTEK and MERKURIY did not have a relationship which, it not disrupted by MARTIN MARIETTA and URSINI, would have resulted in economic benefits for both SEMTEK and MERKURIY. In offering those incentives and other consideration, making those payments, and persuading MERKURIY to take those positions disavowing and terminating its relationship with SEMTEK, MARTIN MARIETTA violated fair and ethical business practices, the MARTIN MARIETTA code of business ethics, and the law. In committing those acts, MARTIN MARIETTA negligently, carelessly, and unlawfully interfered with SEMTEK's advantageous economic relationship with MERKURIY and interfered with SEMTEK's prospective economic advantage.

53. The interference with SEMTEK's advantageous economic relationship with MERKURIY that MARTIN MARIETTA would cause was foreseeable to MARTIN MARIETTA because MARTIN MARIETTA at all relevant times knew about the relationship and joint venture between SEMTEK and MERKURIY, and knew that the commercial marketing rights it was seeking were the same as those rights that were in the subject of the SEMTEK/MERKURIY Joint Venture. Because only one entity could have exclusive marketing rights, and because MARTIN MARIETTA refused to consider a cooperative venture that would include SEMTEK, the injury to SEMTEK from the acts of MARTIN MARIETTA was

virtually certain to occur once the Luch I Satellite capacity was marketed and the Satellite itself was launched.

54. The acts of MARTIN MARIETTA as described above did in fact actually and directly disrupt the economic relationship between SEMTEK and MERKURIY and did in fact interfere with SEMTEK's prospective economic advantage in that on August 8, 1997, MERKURIY faxed to SEMTEK a July 27, 1994 letter informing SEMTEK that no contract existed between them and that the Letter of Intent was not binding, and falsely stating that the parties had failed to timely complete the Joint Venture.

MERKURIY instead entered into a contract with Transworld and/or MARTIN MARIETTA for the same rights to market commercially the data transmission capacity of the Luch I Satellite, and thereafter refused to continue its relationship with SEMTEK.

55. MARTIN MARIETTA persisted in their actions interfering with the SEMTEK/MERKURIY relationship even after it was aware of that relationship, after SEMTEK notified it that its actions were interfering with that relationship, and after SEMTEK notified it that its actions were interfering with that relationship, and after SEMTEK made its agreements available for the review of MARTIN MARIETTA's general counsel. Unless an award of damages is made in this case, LOCKHEED MARTIN as Successor to MARTIN MARIETTA will continue using wrongful means to interfere with smaller United States companies attempting to engage in international commerce in the satellite communications field and in other fields as well.

56. As a direct and proximate result of MARTIN MARIETTA's negligent interference with SEMTEK's prospective economic advantage, SEMTEK has suffered damages in the form of loss of income in excess of $100,000.000 from the Luch I Satellite, plus interest thereon according to proof. The Luch I Satellite was only first launched within the last two years and SEMTEK therefore only suffered its damages commencing within the last two years, as the satellite must be



launched before SEMTEK would start receiving income.

COUNT FOUR

(For Damages for Conspiracy to Interfere

With Prospective Economic Advantage)

57. Plaintiff refers to paragraphs 1 to 31, and 41 to 46, and incorporates each of those paragraphs as if set forth in full at this point.

58. Prior to the events described above, MARTIN MARIETTA entered into a plan, scheme, and conspiracy with Transworld to interfere with SEMTEK's advantageous economic relationship with MERKURIY by making improper or unlawful payments or by other improper or unlawful means, and to capture for itself the right to market the data transmission capabilities of the Luch I Satellite. As part of that plan, scheme, and conspiracy, all payments would be channeled through Transworld but would actually originate with MARTIN MARIETTA, and Transworld would be the contracting party with MERKURIY, even though MARTIN MARIETTA was fully funding Transworld and would receive the financial benefit of the transaction, in order to try to insulate MARTIN MARIETTA from any liability herein and from any liability for any payments made to Russian officials.

59. Pursuant to that conspiracy, MARTIN MARIETTA, acting with and in some cases through Transworld, committed all the acts of interference described above. To further the purposes of the conspiracy, Transworld entered into contracts with MERKURIY for the marketing of the satellite capacity and with MARTIN MARIETTA for the funding, but Transworld itself lacks the financial wherewithal to perform on any of those contracts independently of MARTIN MARIETTA, and was merely a front company for MARTIN MARIETTA in entering those contracts. MARTIN MARIETTA at all times retained ultimate decision-making authority in connection with all activities performed pursuant to the conspiracy as described

above.

60. As a direct and proximate result of MARTIN MARIETTA's conspiracy with Transworld to interfere with SEMTEK's prospective economic advantage, and the actions taken pursuant to that conspiracy, SEMTEK has suffered damages in the form of loss of income in excess of $100,000,000 from the Luch I Satellite, plus interest thereon according to proof. The Luch I Satellite was only first launched within the last two years, as the satellite must by launched before SEMTEK would start receiving income.

61. The acts of MARTIN MARIETTA as described above were performed with malice, oppression, fraud and ill will, with an intent to vex, injure, and annoy SEMTEK, and with a conscious disregard of SEMTEK's rights, all of which warrants the imposition of punitive of exemplary damages in the amount to be determined at trial.

WHEREFORE, Plaintiff prays for judgment against defendants and each of them as follows:

1. For compensatory damages in the sum of at least $100,000,000.

2. For pre-judgment interest thereon according to proof.

3. For punitive or exemplary damages in the amount to be proven at the time of trial.

4. For costs of suit incurred herein.

5. For such further relief as the Court deems just and proper.



Respectfully submitted,

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## COMPLAINT IN CALIFORNIA ACTION

## SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COURT OF LOS ANGELES

SEMTEK INERNATIONAL INCORPORATED,
Plaintiffs,
v.
LOCKHEED MARTIN CORPORATION, Successor by Merger to MARTIN MARIETTA TECHNOLOGIES, INC. Advanced Development and Technology Operations; SAMUEL M. URSINI; and DOES 1 through 100, Defendants.

CASE NO. BC166512
COMPLAINT FOR
1. INDUCING BREACH OF CONTRACT
2. INTENTIONAL INTERFERENCE WITH ECONOMIC ADVANTAGE
3. NEGLIGENT INTERFERENCE WITH ECONOMIC ADVANTAGE
4. CONSPIRACY TO INTERFERE WITH PROSPECTIVE ECONOMIC ADVANTAGE

Plaintiff SEMTEK INTERNATIONAL, INC. alleges the following for causes of action against defendants, and each of them:

### FACTUAL BACKGROUND

1. The true names and capacities, whether individual, corporate, associate or otherwise, of DOES 1100 are unknown to plaintiff, who therefore sues those defendants by those fictitious names. Each fictitiously designated defendant is in some manner legally responsible or liable for the acts and omissions hereinafter alleged and for any damages awarded in this litigation. Plaintiff will seek leave of court to amend this complaint when the true names and capacities of the fictitiously designated defendants become known.

2. Each defendant is the agent, servant, employee, or joint venture of each and every other defendant, and in doing the acts or taking the positions alleged herein, was acting within the course and scope of that agency, service, employment, or joint venture.

3. Defendant, LOCKHEED MARTIN CORPORATION is a corporation organized and existing under the laws of one of the United States, and doing business in the County of Los Angeles, State of California. LOCKHEED MARTIN CORPORATION



is the successor by reason of a merger occurring in approximately August, 1994 to MARTIN MARIETTA TECHNOLOGIES, INC. Advanced Development and Technology Operations [hereinafter MARTIN MARIETTA].

4. Defendant SAMUEL. M. URSINI [hereinafter URSINI] is an individual residing in the County of San Diego, State of California, and was Director of Business Development for MARTIN MARIETTA TECHNOLOGIES, INC. Advanced Development and Technology Operations, and thereafter for LOCKHEED MARTIN Advanced Development Operations at all times relevant to the events giving rise to this lawsuit.

5. The communications and negotiations of contract terms involving the defendants and MERKURIY, LTD. which constituted the inducement to MERKURIY to breach its contract with plaintiff and the interference with plaintiff's prospective economic advantage, as hereinafter set forth, occurred in part in the County of Los Angeles, State of California.

6. Plaintiff SEMTEK INTERNATIONAL INCORPORATED was formed in 1992 for the purpose of engaging in commercial relationships with emerging Russian private enterprises. One of SEMTEK's principals, Dr. Edward K. Shapiro [hereinafter Shapiro], is a Russian born United States citizen who has maintained regular contact with Russian officials. In late October, 1992, several officers of SEMTEK traveled to Russia to meet with Pyotr Sivirin [hereinafter Sivirin], executive director of MERKURIY LTD. [hereinafter MERKURIY] MERKURIY had been licensed by the Russian Space Agency to make certain satellites available for commercial use, including the rental of international communications channels for the transmission of voice, video, or data signals.

7. The October, 1992 meetings led to execution on November 5, 1992 of a document entitled "Business Agreement" by Shapiro on behalf of SEMTEK and by Sivirin on behalf of MERKURIY, whereby both parties agreed to discuss creation of a joint venture to develop and use satellite telecommunications

systems in which MERKURIY would provide development and launch capability and SEMTEK would provide financing and marketing. A copy of the English translation of that Business Agreement is attached as Exhibit 1 hereto and incorporated herein by this reference.

8. In December, 1992, officers of SEMTEK again traveled to Russia, this time accompanied by Michael Garcia, SEMTEK's satellite communications consultant, to meet with Sivirin. On or about December 19, 1992, after three days of meetings, SEMTEK officials, Garcia and Sivirin on behalf of MERKURIY entered into a written agreement, entitled "Protocol", to form a joint venture for the operation and marketing of satellite communications services. The Protocol obligated SEMTEK to provide adequate financing, marketing, and sales for the venture and obligated MERKURIY to provide functional satellites, ground stations, equipment, maintenance and engineering support to ensure the efficient and effective operation of all satellite systems. SEMTEK and MERKURIY further agreed in the Protocol to engage in activities to market the commercial operation of the Luch Satellite series located at 16 degrees West Longitude along with related ground based systems, and agreed that SEMTEK would prepare a business plan containing identified components with respect to the venture's marketing of that satellite. The Protocol included as a possible option marketing the Luch Satellite then in orbit as well. A copy of that Protocol is attached as Exhibit 2 hereto and incorporated herein by this reference.

9. On February 8, 1993, MERKURIY, acting through Sivirin, authorized SEMTEK to act as its agent for the marketing of communication services for the Luch Satellite. A copy of the English translation of that authorization is attached as Exhibit 3 hereto and incorporated herein by this reference. Also, in February, 1993, MERKURIY notified SEMTEK that the Luch Satellite then in orbit could not be part of the joint venture, and the joint venture would involve only future Luch Satellites.

10. Between February 8, 1993 and May 2, 1993, in



performance of its obligations under the Protocol, SEMTEK commissioned a detailed marketing study of the satellite communications market by Centrex Communications Inc., a nationally recognized satellite communications consulting firm. This extensive study confirmed SEMTEK estimates that a substantial current and future market existed for services available through the Luch Satellite configuration.

11. In early May, 1993, following detailed technical discussions in Ottawa and Montreal, SEMTEK officers and Leslie Collins, president of Centrex Communications, met with Sivirin. This meeting resulted in the May 2, 1993 execution by MERKURIY and SEMTEK of a further agreement, entitled "Letter of Intent to Establish a Joint Venture Company Between Merkuriy, Ltd. and Semtek International Incorporated". This agreement set forth in detail the responsibilities of SEMTEK to maintain and staff a United States office for the venture, maintain bank accounts, provide accounting services, direct marketing activities, obtain necessary licenses, permits and legal rights, and contribute 50% of the capitalization. This agreement also set forth in detail the responsibilities of MERKURIY to maintain and staff a Russian office, secure all necessary Russian government approvals, provide all technical and engineering services, operate and maintain the satellite and transponders, provide customer support services, and contribute 50% of the capital in the form of facilities and equipment. The Letter of Intent encompassed the Luch I Satellite, which at that time was the next generation of satellite yet to launched, and provided that the Joint Venture would have exclusive rights to market communication services on the Luch I Satellite. The Letter of Intent comprised an agreement on all essential terms of the Joint Venture and expressed an intent that MERKURIY and SEMTEK would enter into a formal Joint Venture Agreement by May 31, 1993. A copy of the English translation of that Letter of Intent is attached as Exhibit 4 hereto and incorporated herein by this reference.

12. From February, 1993 through the end of the year,

SEMTEK and MERKURIY engaged in continual discussions concerning, among other subjects, the cost of modifications needed for the Luch I Satellite. Also during this time frame, SEMTEK engaged in negotiations with investment banking firms to raise the capital needed to fund the SEMTEK obligations under the Letter of Intent agreement and the Protocol. SEMTEK also prepared the business plan.

13. On or about December 10, 1993, SEMTEK officers met with Sivirin in Washington, D.C. to further refine the satellite modification costs and to review the business plan drafted by SEMTEK for the Joint Venture. At this meeting SEMTEK and MERKURIY agreed that MERKURIY would define a fixed cost for satellite modification which it would transmit to SEMTEK. SEMTEK delivered the business plan to Sivirin.

14. SEMTEK thereafter continued to refine the business Plan, worked with at least three investment banking groups on financing, and began interviewing potential senior management team members to be employed by the Joint Venture.

15. Inasmuch as MERKURIY had not completed certain of its tasks, Sivirin wrote to SEMTEK on February 2, 1994 confirming MERKURIY's intention regarding the founding of a joint venture with SEMTEK, and extending the time for entering a formal joint venture agreement to December 31, 1994. A copy of an English translation of that written confirmation is attached as Exhibit 5 hereto and incorporated herein by this reference.

16. From February, 1994 through June, 1994, SEMTEK continued its work in developing staff for the joint venture, regularly communicated with Sivirin, and formally contracted with the State Street Business Group, an investment banking firm, for the purpose of raising capital for the venture and for financial advisory services. Due diligence for funding had been completed.

17. In May, 1994, Sivirin informed SEMTEK by telephone that MARTIN MARIETTA had expressed interest in the Luch



I Satellite project. Sivirin said MARTIN MARIETTA would supply technical assistance to the project, but confirmed that the Joint Venture between MERKURIY and SEMTEK was still on course.

18. On June 12, 1994, SEMTEK invited Sivirin to visit the United States to meet with the proposed Joint Venture management and staff experts SEMTEK had selected, to conclude arrangements for the Joint Venture's business, and to meet with appropriate officials of MARTIN MARIETTA to coordinate the work of each party.

19. On June 20, 1994, at SEMTEK's request, MERKURIY again confirmed in writing the legal validity of the May 2, 1993 Letter of Intent and February 2, 1994 extension letter, and reaffirmed its intent to create the joint venture for commercial use of the Luch I Satellite in accordance with those agreements. A copy of an English translation of that written confirmation is attached as Exhibit 6 hereto and incorporated herein by this reference.

20. On July 5, 1994, Sivirin sent a telefax to SEMTEK accepting in principle the invitation to meet in the United States but requesting a delay of the meeting to give MERKURIY time to settle arrangements with MARTIN MARIETTA for those meetings and to enable Sivirin to complete visa arrangements. In a telephone conversation on that same date, Sivirin indicated for the first time that the SEMTEK/MERKURIY Joint Venture might be in jeopardy due to the involvement of MARTIN MARIETTA and a third party. This was the first indication from Sivirin that MERKURIY might breach its agreements with SEMTEK, agreements which Sivirin had continually confirmed in writing.

21. On July 6, 1994, SEMTEK wrote to the Chairman of MARTIN MARIETTA formally notifying MARTIN MARIETTA of the SEMTEK/MERKURIY Joint Venture and the fact that any agreement between MARTIN MARIETTA and MERKURIY for commercialization of the Luch Satellite would conflict with the SEMTEK/MERKURIY Joint Venture, and also

requesting a meeting with appropriate MARTIN MARIETTA officers to resolve any such conflicts. A copy of that letter is attached as Exhibit 7 hereto and incorporated herein by this reference.

22. On or about July 12, 1994, officers of SEMTEK met with URSINI and Richard Millman, President of Transworld Communications [hereinafter Transworld]. Millman stated at that meeting that SEMTEK had no joint venture with MERKURIY, that Transworld had a contract with MERKURIY for Luch Satellite development, and that MARTIN MARIETTA was merely engaged in a contractual arrangement with Transworld. Transworld personnel asserted that Sivirin disclaimed any agreements with SEMTEK because the Joint Venture had to be completed by July 31, 1993, notwithstanding that Sivirin himself had extended the completion date for the Joint Venture to December 31, 1994. URSINI agreed with and endorsed Millman's statements in all respects. SEMTEK offered to provide its agreements to the parties at the meeting in order to inform Transworld and MARTIN MARIETTA of the details of the contractual arrangements between SEMTEK and MERKURIY, but Transworld and MARTIN MARIETTA refused that offer.

23. On July 20, 1994, URSINI wrote on behalf of MARTIN MARIETTA that MARTIN MARIETTA had no direct conflict with SEMTEK because MARTIN MARIETTA only had agreements with Transworld, and not with MERKURIY, with respect to commercialization of the new generation of Luch Satellites. In that letter, URSINI referred to the Loutch satellites, which is a spelling variant of Luch that has arisen in transliteration from Russian into English. A copy of that letter is attached as Exhibit 8 hereto and incorporated herein by this reference.

24. Commencing in July, 1994 and continuing to the present time, with full knowledge of the agreements and relationship between SEMTEK and MERKURIY, MARTIN MARIETTA and Transworld entered into and engaged in efforts to secure for



themselves a contract with MERKURIY for the commercial exploitation of the Luch I Satellite, all in conflict with and in derogation of the known rights of SEMTEK and the known relationship between SEMTEK and MERKURIY. Those efforts culminated in MARTIN MARIETTA and Transworld securing a contract with MERKURIY at a later date whereby MARTIN MARIETTA and Transworld would provide the financing and marketing for the satellite, and MERKURIY would provide the engineering, technology, and hardware. MARTIN MARIETTA and Transworld thereby took over the position and responsibilities of plaintiff in its relationship with MERKURIY.

25. On August 1, 1994, SEMTEK wrote to URSINI notifying him that as the party financing Transworld's venture with MERKURIY for commercialization of the Luch Satellite and as the party primarily benefiting from that venture financially, MARTIN MARIETTA was interfering with SEMTEK's ongoing relationship with MERKURIY. A copy of that letter is attached as Exhibit 9 hereto and incorporated herein by this reference.

26. On August 8, 1994, SEMTEK received by fax a letter dated July 27, 1994 from Sivirin asserting that the Letter of Intent was not binding, that the Joint Venture had to be established by July 4. 1993, and that the Joint Venture was not formed due to the efforts of Transworld. A copy of that letter is attached as Exhibit 10 hereto and incorporated herein by this reference. Sivirin wrote this letter as a direct result of acts of interference by Transworld and MARTIN MARIETTA which caused Sivirin to disregard the extension he had given to the end of the year for completing the joint venture agreement.

27. Although it initially refused to even look at the SEMTEK/MERKURIY agreements, MARTIN MARIETTA eventually did agree to have its general counsel review the SEMTEK/MERKURIY agreements, but steadfastly to this day has refused to allow SEMTEK to review the agreements between MERKURIY, Transworld, and MARTIN MARIETTA, despite requests by SEMTEK that it be allowed to review those agreements. After reviewing the SEMTEK/MERKURIY

agreements, MARTIN MARIETTA's general counsel acknowledged that SEMTEK and MERKURIY had an agreement or relationship in place for commercialization and marketing of the Luch I Satellite. He also stated that negotiations were underway among MERKURIY, Transworld, and MARTIN MARIETTA, but did not indicate that those parties had reached an agreement. In fact, MERKURIY, Transworld and MARTIN MARIETTA did not enter their agreement until March, 1995.

28. SEMTEK made extensive efforts to revive its contract and economic relationship with MERKURIY, but Sivirin indicated that although his July 27, 1994 letter was "unfortunate", his hands were tied and he could not avoid dealing with Transworld, Millman, and MARTIN MARIETTA. He further indicated in December, 1994 that it was beyond his power to change the arrangements for the commercialization of the satellite.

29. At all times mentioned herein, Transworld was strictly a front company for MARTIN MARIETTA. MARTIN MARIETTA fully financed, directed and controlled the activities of Transworld and its president, Richard Millman. MARTIN MARIETTA acted through this ostensibly separate company in order to avoid or minimize the risk of prosecution or other adverse consequences to it that could accrue as a result of improper payments to Russian officials that could violate the Foreign Corrupt Practices Act or other laws, and to avoid civil liability for inducing breach of contract or interfering with SEMTEK's prospective economic advantage.

30. At all times mentioned herein, MARTIN MARIETTA so controlled and dominated Transworld that Transworld had no real separate corporate existence apart from that of MARTIN MARIETTA, resulting in a complete unity of interest between those two companies such that Transworld is merely the alter ego of MARTIN MARIETTA. Transworld was completely undercapitalized for its purported business of commercialization of the Luch Satellite and was entirely dependant for funding on



MARTIN MARIETTA. Transworld had no expertise within its company for conducting its purported business of commercialization of the Luch Satellite and was entirely dependent for that expertise on MARTIN MARIETTA. MARTIN MARIETTA attended all meetings, received all correspondence, and made all important business decisions with respect to Transworld's purported business of commercialization of the Luch Satellite. The individuality and separateness of those two companies had ceased, and Transworld was a mere shell which MARTIN MARIETTA used as a conduit for its own business affairs.

31. Adhering to the fiction that Transworld has a separate corporate existence from MARTIN MARIETTA would perpetrate a fraud on plaintiff, would promote injustice, would yield an inequitable result and would constitute an abuse of the corporate privilege in that Transworld secured its contract or contracts with MERKURIY, in derogation of the rights, contracts, and economic relationship SEMTEK had with MERKURIY, and for the benefit of MARTIN MARIETTA, by means of improper payments to Sivirin or Russian officials to positions superior to Sivirin. or by other improper means, all financed and directed, approved, or ratified by MARTIN MARIETTA.

32. MARTIN MARIETTA and URSINI fraudulently misrepresented or concealed certain facts essential to SEMTEK's claims in this complaint, and SEMTEK only first learned of all the essential facts giving rise to a cause of action against those defendants within two years of filing this complaint. In particular, MARTIN MARIETTA falsely represented that it had no financial interest in Transworld and no direct involvement with MERKURIY, and that its only role in the transaction was pursuant to contractual arrangements with Transworld. MARTIN MARIETTA also represented that it had conducted an internal review and that review established that it had not interfered with the SEMTEK/MERKURIY contract. MARTIN MARIETTA also falsely represented that Transworld

had prior rights because Transworld already had a contract with MERKURIY for the next generation Luch Satellite at the time SEMTEK entered its Letter of Intent. Within two years of filing this complaint, SEMTEK has learned that all of these representations were false, and that the true facts were that MARTIN MARIETTA has a controlling financial interest in Transworld and in fact did control Transworld in connection with the latter's transaction with MERKURIY, and that Transworld and MARTIN MARIETTA did not complete a contract with MERKURIY until at least March, 1995, long after initially beginning their interference with SEMTEK's prospective economic advantage by inducing MERKURIY to breach its contract with SEMTEK or inducing MERKURIY to terminate the advantageous economic relationship SEMTEK had with MERKURIY. SEMTEK had no means to discover this information earlier other than from MARTIN MARIETTA and URSINI, and they had refused to disclose those facts.

**COUNT ONE**

**(For Damages for Inducing Breach of Contract)**

33. Plaintiff refers to paragraphs 1 to 32, and incorporates each of those paragraphs as if set forth in full at this point.

34. As of no later than May 3. 1993, SEMTEK had a valid and enforceable contract with MERKURIY consisting of the Business Agreement, the Protocol, the agency authorization, and the Letter of Intent, which together contained all essential terms for the formation of a Joint Venture with the exclusive right to sell data transmission services on a commercial basis worldwide. The Joint Venture embodied in these documents related to the next generation of Luch Satellite and to other satellites MERKURIY would assign to the Joint Venture. The protocol also potentially related to the Luch Satellite already in orbit, but that part of the transaction never materialized because Transworld had prior rights to that satellite and the transaction with respect to that satellite was only intended to move forward if Transworld remained in breach of its prior agreement, as it was at the time of the Business Agreement and Protocol. The



Letter of Intent referred to the next generation of satellite as Luch I. MARTIN MARIETTA and URSINI, in their correspondence and other documentation, referred to this next generation of satellite as Loutch II, to denote some additional modifications made by MARTIN MARIETTA to make the satellite conform to its application.

35. The contract between SEMTEK and MERKURIY afforded a high probability of substantial economic benefit to SEMTEK, in that each satellite contains four transponders, and each transponder could produce revenues of up to $2,000,000 per year, and up to three times that amount with compression devices deployed that would enable each transponder to send more than one signal simultaneously. The guaranteed life of the Luch Satellite is three years, but the usual useful life is five years. The contract contemplated two Luch satellites. Anticipated revenues to the Joint Venture thus ranged from $48,000,000 to $80,000,000 depending on the life of the satellite, before application of the compression technology, which could have tripled revenue. The investment required would not exceed $5,000,000, so the contract could have resulted in SEMTEK receiving over $100,000,000 net of expenses over the course of five years.

36. At all times mentioned herein, MARTIN MARIETTA and URSINI were aware of the existence of the contract between SEMTEK and MERKURIY. MARTIN MARIETTA and URSINI also had a desire to obtain some or all of the rights to commercially market the satellite transmission capacity for their own economic benefit.

37. With knowledge of SEMTEK's contract with MERKURIY, MARTIN MARIETTA and URSINI, acting directly or through Transworld, offered economic incentives and other consideration, and made improper payments, to either Sivirin or superiors of Sivirin, or to MERKURIY, for the express purpose of securing for MARTIN MARIETTA or its front company Transworld the rights to commercially market the Luch I Satellite which it knew belonged to SEMTEK, all for the

pecuniary benefit of MARTIN MARIETTA Advanced Development and Technology Operations, which URSINI headed. MARTIN MARIETTA and URSINI, acting directly or through Transworld and Millman, also advised, counseled, and persuaded MERKURIY that it could breach, disavow, or otherwise avoid its contract with SEMTEK by asserting that no contract had been formed, and that the parties had failed to timely form the Joint Venture, when in fact a contract already existed and the time to complete the business plan and formal joint venture document had been extended and had not yet expired. In offering those incentives and other consideration, making those payments, and persuading MERKURIY to take those positions disavowing the contract with SEMTEK, MARTIN MARIETTA and URSINI violated fair and ethical business practices, the MARTIN MARIETTA code of business ethics, and the law. MARTIN MARIETTA and URSINI committed those acts with the specific intent of inducing MERKURIY to breach and disavow its contract with SEMTEK and instead enter into a contract, with Transworld and/or MARTIN MARIETTA. MARTIN MARIETTA intended to interfere with the established relationship between SEMTEK and MERKURIY, and its acts were designed to disrupt that relationship and deprive SEMTEK of the economic benefit of its contract with MERKURIY.

38. The acts of MARTIN MARIETTA and URSINI as described above did in fact induce MERKURIY to breach its contract with SEMTEK and did in fact actually disrupt the economic relationship between SEMTEK and MERKURIY in that on August 8, 1994, MERKURIY faxed to SEMTEK a July 27, 1994 letter informing SEMTEK that no contract existed between them and that the Letter of Intent was not binding, and falsely stating that the parties had failed to timely complete the Joint Venture. MERKURIY instead entered into a contract with Transworld and/or MARTIN MARIETTA, and thereafter refused to continue performing under its contract with SEMTEK.

39. As a direct and proximate result of MARTIN



MARIETTA's and URSINI's inducing MERKURIY to breach its contact with SEMTEK, SEMTEK has suffered damages in the form of loss of income in excess of $100,000,000 from the Luch I Satellite, plus interest thereon according to proof. The Luch I Satellite was only first launched within the last two years, and SEMTEK therefore only suffered its damages commencing within the last two years, as the satellite must be launched before SEMTEK would start receiving income.

40. The acts of MARTIN MARIETTA and URSINI as described above were performed with malice, oppression, fraud and ill will, with an intent to vex, injure, and annoy SEMTEK, and with a conscious disregard of SEMTEK's rights, all of which warrants the imposition of punitive or exemplary damages in an amount to be determined at trial.

## COUNT TWO

### (For Damages for Intentional Interference With Prospective Economic Advantage)

41. Plaintiff refers to paragraphs 1 to 32, and incorporates each of those paragraphs as if set forth in full at this point.

42. At all times mentioned herein, an economic relationship existed between SEMTEK and MERKURIY whereby those entities would engage in a Joint Venture that would have the exclusive worldwide right to sell data transmission services via the Luch I Satellite on a commercial basis. This economic relationship consisted of the agreements set forth in the Business Agreement, the Protocol, and the Letter of Intent described above, as well as the extensive steps taken by SEMTEK to interview and assemble highly qualified staff, engage the services of an investment banking firm, retain consultants in satellite technology and marketing, prepare a business plan, and participate in meetings, conversations and correspondence with MERKURIY and others concerning the business of the Joint Venture. While the Business Agreement and Protocol related to the Luch Satellite that was in orbit at the time and applied only if Transworld, which had the marketing rights for that satellite,

continued to breach its agreement with MERKURIY as it had at that time, the Letter of Intent applied to the Luch I Satellite to be launched at a then undetermined date in the future. The Luch I Satellite was later referred to as Loutch II in MARTIN MARIETTA correspondence and documents, denoting some additional modifications LOCKHEED MARTIN made for compatibility with its own application. SEMTEK and MERKURIY were progressing toward completion of a final Joint Venture document which would encompass the business plan and set forth their arrangement in greater detail than the Letter of Intent previously signed and would have concluded that arrangement if not for the interference of MARTIN MARIETTA and URSINI.

43. The economic relationship between SEMTEK and MERKURIY afforded a high probability of substantial economic benefit to SEMTEK, in that each satellite contains four transponders, and each transponder could produce revenues of up to $2,000,000 per year, and up to three times that amount with compression devices deployed that would enable each transponder to send more than one signal simultaneously. The guaranteed life of the Luch I Satellite is three years, but the usual useful life is five years. The business plan contemplated two Luch satellites. Anticipated revenues to the Joint Venture thus ranged from $48,000,000 to $80,000,000 depending on the life of the satellite, before application of the compression technology, which could have tripled revenue. The investment required would not exceed $5,000,000, so the contract could have resulted in SEMTEK receiving over $100,000,000 net of expenses over the course of five years.

44. At all times mentioned herein, MARTIN MARIETTA and URSINI were aware of the existence of the advantageous economic relationship between SEMTEK and MERKURIY. MARTIN MARIETTA and URSINI also had a desire to obtain some or all of the rights to commercially market the satellite transmission capacity for their own economic benefit.

45. With knowledge of SEMTEK's advantageous economic



relationship with MERKURIY, MARTIN MARIETTA and URSINI, acting directly or through Transworld, offered economic incentives and other consideration, and made improper payments, to either Sivirin or superiors of Sivirin, or to MERKURIY, for the express purpose of securing for MARTIN MARIETTA or its front company Transworld the rights to commercially market the Luch Satellite which it knew belonged to SEMTEK, all for the pecuniary benefit of MARTIN MARIETTA Advanced Development and Technology Operations, which URSINI headed. MARTIN MARIETTA and URSINI, acting directly or through Transworld and Millman, also advised, counseled, and persuaded MERKURIY that it could disavow, terminate, or otherwise avoid its relationship with SEMTEK by asserting that no contract had been formed, and that the parties had failed to timely form the Joint Venture, when in fact the time to complete the business plan and formal joint venture document had been extended and had not yet expired, and SEMTEK and MERKURIY did have a relationship which, if not disrupted by MARTIN MARIETTA and URSINI, would have resulted in economic benefits for both SEMTEK and MERKURIY. In offering those incentives and other consideration, making those payments, and persuading MERKURIY to take those positions disavowing and terminating its relationship with SEMTEK, MARTIN MARIETTA and URSINI violated fair and ethical business practices, the MARTIN MARIETTA code of business ethics, and the law. MARTIN MARIETTA and URSINI committed those acts with the specific intent of interfering with SEMTEK's advantageous economic relationship with MERKURIY and interfering with SEMTEK's prospective economic advantage. MARTIN MARIETTA's acts were designed to disrupt that relationship and deprive SEMTEK of the economic benefit of its relationship with MERKURIY.

46. The acts of MARTIN MARIETTA and URSINI as described above did in fact actually disrupt the economic relationship between SEMTEK and MERKURIY and did in fact interfere with SEMTEK's prospective economic advantage in

that on August 8, 1994 MERKURIY faxed to SEMTEK a July 27, 1994 letter informing SEMTEK that no contract existed between them and that the Letter of Intent was not binding, and falsely stating that the parties had failed to timely complete the Joint Venture. MERKURIY instead entered into a contract with Transworld and/or MARTIN MARIETTA for the same rights to market commercially the data transmission capacity of the Luch I Satellite, and thereafter refused to continue its relationship with SEMTEK.

47. As a direct and proximate result of MARTIN MARIETTA's and URSINI's interference with SEMTEK's prospective economic advantage, SEMTEK has suffered damages in the form of loss of income in excess of $100,000,000 from the Luch I Satellite, plus interest thereon according to proof. The Luch I Satellite was only first launched within the last two years, and SEMTEK therefore only suffered its damages commencing within the last two years, as the satellite must be launched before SEMTEK would start receiving income.

48. The acts of MARTIN MARIETTA and URSINI as described above were performed with malice, oppression, fraud and ill will, with an intent to vex, injure, and annoy SEMTEK, and with a conscious disregard of SEMTEK's rights, all of which warrants the imposition of punitive or exemplary damages in an amount to be determined at trial.

**COUNT THREE**

**(For Damages for Negligent Interference With Prospective Economic Advantage)**

49. Plaintiff refers to paragraphs 1 to 32, and incorporates each of those paragraphs as if set forth in full at this point.

50. At all times mentioned herein, an economic relationship existed between SEMTEK and MERCURIY whereby those entities would engage in a Joint Venture that would have the exclusive worldwide right to sell data transmission services via the Luch I Satellite on a commercial basis. This economic relationship consisted of the agreements set forth in the Business



Agreement, the Protocol, and the Letter of Intent described above, as well as the extensive steps taken by SEMTEK to interview and assemble highly qualified staff, engage the services of an investment banking firm, retain consultants in satellite technology and marketing, prepare a business plan, and participate in meetings, conversations and correspondence with MERKURIY and others concerning the business of the Joint Venture. While the Businesses Agreement and Protocol related to the Luch Satellite that was in orbit at the time and applied only if Transworld, which had the marketing rights for that satellite, continued to breach its agreement with MERKURIY as it had at that time, the Letter of Intent applied to the Luck I Satellite to be launched at a then undetermined date in the future. The Luch I Satellite was later referred to as Loutch II in MARTIN MARIETTA correspondence and documents, denoting some additional modifications LOCKHEED MARTIN made for compatibility with its own application. SEMTEK and MERKURIY were progressing toward completion of a final Joint venture document which would encompass the business plan and set forth their arrangement in greater detail than the Letter of Intent previously signed and would have concluded that arrangement if not for the interference of MARTIN MARIETTA and URSINI.

51. The economic relationship between SEMTEK and MERKURIY was intended to benefit both parties economically and afforded a high probability of substantial economic benefit to SEMTEK, in that each satellite contains four transponders, and each transponder could produce revenues of up to $2,000,000 per year, and up to three times that amount with compression devices deployed that would enable each transponder to send more than one signal simultaneously. The guaranteed life of the Luch Satellite is three years, but the usual useful life is five years. The business plan contemplated two Luch satellites. Anticipated revenues to the Joint Venture thus ranged from $48,000,000 to $80,000,000 depending on the life of the satellite, before application of the compression technology which could have tripled revenue. The investment required

would not exceed $5,000,000, so the contract could have resulted in SEMTEK receiving over $100,000,000 net of expenses over the course of five years.

52. At all times mentioned herein, MARTIN MARIETTA and URSINI were aware of the existence of the advantageous economic relationship between SEMTEK and MERKURIY. MARTIN MARIETTA and URSINI also had a desire to obtain some or all of the rights to commercially market the satellite transmission capacity for their own economic benefit, and knew that if they did not act with due care, their actions is seeking those commercial marketing rights would interfere with the relationship between SEMTEK and MERKURIY, and would cause SEMTEK to lose the probable future economic benefit and prospective economic advantage of its relationship with MERKURIY.

53. With knowledge of SEMTEK's advantageous economic relationship with MERKURIY, MARTIN MARIETTA and URSINI, acting directly or through Transworld, negligently, carelessly, and unlawfully offered economic incentives and other consideration, and made improper payments, to either Sivirin or superiors of Sivirin, or to MERKURIY, for the express purpose of securing for MARTIN MARIETTA or its front company Transworld the rights to commercially market the Luch Satellite which it knew belonged to SEMTEK, all for the pecuniary benefit of MARTIN MARIETTA Advanced Development and Technology Operations, which URSINI headed. MARTIN MARIETTA and URSINI, acting directly or through Transworld and Millman, also negligently, carelessly, and unlawfully advised, counseled, and persuaded MERKURIY that it could disavow, terminate, or otherwise avoid its relationship with SEMTEK by asserting that no contract had been formed, and that the parties had failed to timely form the Joint Venture, when in fact the time to complete the business plan and formal joint venture document had been extended and had not yet expired, and SEMTEK and MERKURIY did have a relationship which, if not disrupted by MARTIN MARIETTA and URSINI, would



have resulted in economic benefits for both SEMTEK and MERKURIY. In offering those incentives and other consideration, making those payments, and persuading MERKURIY to take those positions disavowing and terminating its relationship with SEMTEK, MARTIN MARIETTA and URSINI violated fair and ethical business practices, the MARTIN MARIETTA code of business ethics, and the law. In committing those acts, MARTIN MARIETTA and URSINI negligently, carelessly, and unlawfully interfered with SEMTEK's advantageous economic relationship with MERKURIY and interfered with SEMTEK's prospective economic advantage.

54. The interference with SEMTEK's advantageous economic relationship with MERKURIY that MARTIN MARIETTA and URSINI would cause was foreseeable to MARTIN MARIETTA and URSINI because MARTIN MARIETTA and URSINI at all relevant times knew about the relationship and joint venture between SEMTEK and MERKURIY, and knew that the commercial marketing rights they were seeking were the same as those rights that were the subject of the SEMTEK/MERKURIY Joint Venture. Because only one entity could have exclusive marketing rights, and because MARTIN MARIETTA and URSINI refused to consider a cooperative venture that would include SEMTEK, the injury to SEMTEK from the acts of MARTIN MARIETTA and URSINI was virtually certain to occur once the Luch Satellite capacity was marketed and the Satellite itself was launched.

55. The acts of MARTIN MARIETTA and URSINI as described above did in fact actually and directly disrupt the economic relationship between SEMTEK and MERKURIY and did in fact interfere with SEMTEK's prospective economic advantage in that on August 8, 1994, MERKURIY faxed to SEMTEK a July 27, 1994 letter informing SEMTEK that no contract existed between them and that the Letter of Intent was not binding, and falsely stating that the parties had failed to timely complete the Joint Venture. MERKURIY instead entered

into a contract with Transworld and/or MARTIN MARIETTA for the same rights to market commercially the data transmission capacity of the Luch I Satellite, and thereafter refused to continue its relationship with SEMTEK.

56. MARTIN MARIETTA and URSINI persisted in their actions interfering with the SEMTEK/MERKURIY relationship even after they were aware of that relationship, after SEMTEK notified them that their actions were interfering with that relationship, and after SEMTEK made its agreements available for the review of MARTIN MARIETTA's general counsel. Unless an award of damages is made in this case, LOCKHEED MARTIN as Successor to MARTIN MARIETTA will continue using wrongful means to interfere with smaller United States companies attempting to engage in international commerce in the satellite communications field and in other fields as well.

57. As a direct and proximate result of MARTIN MARIETTA's and URSINI's negligent interference with SEMTEK's prospective economic advantage, SEMTEK has suffered damages in the form of loss of income in excess of $100,000,000 from the Luch I Satellite, plus interest thereon according to proof. The Luch I Satellite was only first launched within the last two years, and SEMTEK therefore only suffered its damages commencing within the last two years, as the satellite must be launched before SEMTEK would start receiving income.

**COUNT FOUR**

**(For Damages for Conspiracy to Interfere With Prospective Economic Advantage)**

58. Plaintiff refers to paragraphs 1 to 32, and 42 to 47, and incorporates each of those paragraphs as if set forth in full at this point.

59. Prior to the events described above, MARTIN MARIETTA, acting through URSINI, entered into a plan, scheme, and conspiracy with Transworld to interfere with SEMTEK's advantageous economic relationship with



MERKURIY by making improper or unlawful payments or by other improper or unlawful means, and to capture for themselves the right to market the data transmission capabilities of the Luch I Satellite. As part of that plan, scheme, and conspiracy, all payments would be channeled through Transworld but would actually originate with MARTIN MARIETTA, and Transworld would be the contracting party with MERKURIY, even though MARTIN MARIETTA was fully funding Transworld and would receive the financial benefit of the transaction, in order to try to insulate MARTIN MARIETTA from any liability herein and from any liability for any payments made to Russian officials.

60. Pursuant to that conspiracy, MARTIN MARIETTA and URSINI, acting with and in some cases through Transworld, committed all of the acts of interference described above. To further the purposes of the conspiracy, Transworld entered into contracts with MERKURIY for the marketing of the satellite capacity and with MARTIN MARIETTA for the funding, but Transworld itself lacks the financial wherewithal to perform on any of those contracts independently of MARTIN MARIETTA, and was merely a front company for MARTIN MARIETTA in entering those contracts. MARTIN MARIETTA at all times retained ultimate decision-making authority in connection with all activities performed pursuant to the conspiracy as described above.

61. As a direct and proximate result of MARTIN MARIETTA's and URSINI's conspiracy with Transworld to interfere with SEMTEK's prospective economic advantage, and the actions taken pursuant to that conspiracy, SEMTEK has suffered damages in the form of loss of income in excess of $100,000,000 from the Luch I Satellite, plus interest thereon according to proof. The Luch I Satellite was only first launched within the last two years, and SEMTEK therefore only suffered its damages commencing within the last two years, as the satellite must be launched before SEMTEK would start receiving income.

62. The acts of MARTIN MARIETTA and URSINI as

described above were performed with malice, oppression, fraud and ill will, with an intent to vex, injure, and annoy SEMTEK, and with a conscious disregard of SEMTEK's rights, all of which warrants the imposition of punitive or exemplary damages in an amount to be determined at trial.

WHEREFORE, Plaintiff prays for judgment against defendants, and each of them, as follows:

1. For compensatory damages in the sum of at least $100,000,000.

2. For pre-judgment interest thereon according to proof.

3. For punitive or exemplary damages in an amount to be proven at the time of trial.

4. For costs of suit incurred herein.

5. For such further relief as the Court deems just and proper.

DATED: _____
ENGSTROM, LIPSCOMB & LACK
By: _____
WALTER J. LACK
STEVEN C. SHUMAN
Attorneys for Plaintiff, SEMTEK
INTERNATIONAL INCORPORATED

DATED: _____
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